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**A N A C T**  
**ESTABLISHING**  
**FREE SCHOOLS**  
**THROUGHOUT**  
**THE STATE;**  
**WITH**  
**FORMS AND INSTRUCTIONS.**

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**ALBANY:**  
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# CHAPTER 140.

## AN ACT

### Establishing Free Schools throughout the State.

[Passed March 26, 1849, three-fifths being present.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

**SECTION 1.** Common schools in the several school districts in this State shall be free to all persons residing in the district over five and under twenty-one years of age. Persons not residents of a district may be admitted into the schools kept therein with the approbation in writing of the trustees thereof, or a majority of them.

§ 2. It shall be the duty of the several boards of supervisors, at their annual meetings, to cause to be levied and collected from their respective counties, in the same manner as county taxes, a sum equal to the amount of state school moneys apportioned to such counties and to apportion the same among the towns and cities in the same manner as the moneys received from the State are apportioned. They shall also cause to be levied and collected from each of the towns in their respective counties, in the same manner as other town taxes, a sum equal to the amount of state school moneys apportioned to said towns respectively.

§ 3. The trustees of each school district within thirty, and not less than fifteen, days preceding the time for holding the annual district meeting in each year, shall prepare an estimate of the amount of money necessary to be raised in the district for the ensuing year, for the

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payment of the debts and expenses to be incurred by said district for fuel, furniture, school apparatus, repairs, and insurance of school house, contingent expenses, and teachers' wages exclusive of the public money and the money required by law to be raised by the counties and towns and the income of local funds, and shall cause printed or written notices thereof to be posted for two weeks previous to said meeting, upon the school house door, and in three or more of the most public places in said district. The trustees shall present such estimate to such meeting, and the voters present who are of full age residing in such school district and entitled to hold land in this state, who own or lease real property in such district, subject to taxation for school purposes, or who shall have paid any district tax within two years preceding, or who own any personal property liable to be taxed for school purposes in such district, exceeding fifty dollars in value, exclusive of such as is exempt from execution, and no others, shall vote thereon for each item separately, and so much of said estimate as shall be approved by a majority of such voters present, shall be levied and raised by tax on said district, in the same manner as other district taxes are now by law levied and collected. District collectors shall in all cases, before entering upon the duties of their respective offices, give security to the satisfaction of the trustees, for the faithful discharge of their duties; and all moneys collected by them shall be paid to the trustees of their respective districts.

§ 4. It shall be the duty of the collector, upon receiving his warrant, for two successive weeks to receive such taxes as may be voluntarily paid to him; and in case the whole amount shall not be so paid in, the collector shall forthwith proceed to collect the same. He shall receive for his services, on all sums paid as aforesaid, one per cent, and upon all sums collected by him after the expiration of the time mentioned, five per cent; and in case a levy and sale shall be necessarily made by such collector, he shall be entitled to travelling fees, at the rate of six cents per mile, to be computed from the school house in such district.

§ 5. If the trustees shall neglect to prepare the said estimate within the time herein limited, or shall neglect to post the required notice, it shall be lawful for the meeting to adjourn to such other time as will be sufficient to prepare the said estimate and give the said notice.

§ 6. When the said voters of any district at their annual meeting shall refuse or neglect to raise by tax a sum of money, which added to the public money, and the money raised by county and towns will support a school in said district for at least four months in a year, keep the school house in proper repair and furnish the necessary fuel, then it shall be the duty of said trustees to repair the school house, purchase the necessary fuel, and employ a teacher for four months, and the expense shall be levied and collected in the manner provided in the third section of this act.

§ 7. Free and gratuitous education shall be given to each pupil, in each of the common, public, ward and district schools in the respective cities of this State, now incorporated or hereafter to be incorporated, including the schools of the public school society in the city of New-York, according to any law now in force in said cities. And by each city, where such free and gratuitous education is not already established, laws and ordinances may and shall, without delay, be passed, providing for, and securing and sustaining the system in each of their common, public, ward or district schools.

§ 8. All laws and parts of laws inconsistent with the provisions of this act, other than those relating to free schools in any cities in this state, are hereby repealed.

§ 9. In case any trustee or other school district officer shall use any money in his hands belonging to such district, and shall not apply the same as directed by law, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine, not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment.

§ 10. The electors shall determine by ballot at the annual election to be held in November next, whether this act shall or shall not become a law.

§ 11. It shall be the duty of the State Superintendent of Common Schools to prepare and furnish to the several town clerks in this State, forms of the poll lists, returns and other necessary proceedings to carry into effect this act, and he shall also furnish at the expense of the state, to each school district in the State, five copies of this act, with the forms prepared by him.

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§ 12. The ballots to be deposited in the ballot box shall be in the following form. Those cast in favor of the adoption of this act shall contain the following words:

SCHOOL.

**FOR THE NEW SCHOOL LAW.**

Those cast against the adoption of this act shall contain the following words:

SCHOOL.

**AGAINST THE NEW SCHOOL LAW.**

And the ballots shall be so folded as to conceal all the words except the word school, which latter word shall not be concealed, but shall appear on the ballot as folded.

§ 13. The inspectors of elections in the several election districts, shall furnish a separate ballot box into which shall be placed all the ballots given for or against the new school law. The inspectors shall canvass the ballots, and make return thereof in the same manner as votes given for the office of governor and lieutenant governor are by law canvassed and returned.

§ 14. In case a majority of all the votes in the state shall be cast against the new school law, this act shall be null and void; and in case a majority of all the votes in the State shall be cast for the new school law, then this act shall become a law and shall take effect on the first day of January, eighteen hundred and fifty.

## CHAPTER 404.:

### AN ACT

To amend an act entitled "An act establishing Free Schools throughout the State," passed March 26, 1849.

[Passed April 11, 1849, three-fifths being present.]

*The People of the State of New-York, represented in Senate and and Assembly, do enact as follows:*

SECTION 1. Section six of the act entitled "An act establishing free schools throughout the state, passed March 26, 1849, is hereby amended by striking out the word "second," in the last line of said section, and inserting the word "third" in lieu thereof, and the said section shall be amended accordingly in the printed copies of said act when published by the secretary of state.

§ 2. The fourteenth section of said act is amended by striking out therefrom all after the word "effect," and inserting in lieu thereof the word "immediately."

§ 3. The trustees of any school district, or a majority of them, may at any time after the adoption of this act by the people, and prior to the first annual meeting thereafter, if they deem it necessary, call a special meeting for the purpose mentioned in the third section of said act, and notice of the same shall be given at the same time and in the same manner as is required by said section in relation to the estimates therein mentioned.

§ 4. This act shall take effect immediately.



## **FORMS AND INSTRUCTIONS**

**Prepared in pursuance of Section 11, of the foregoing Act.**

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### **POLL LISTS.**

The Inspectors of Election will provide a separate box to contain the ballots cast for and against the School Law; and the Clerks of the Polls will add another column to the Poll Lists kept by them, heading it "School Law."

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### **FORM OF BALLOT.**

The form of the ballot is prescribed in the 12th section of the act.

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### **CERTIFICATE OF CANVASS.**

We, the Board of Inspectors of Election, in and for the election district of the town of (or of the ward of the city of ) in the county of do certify that the following is a correct statement of the votes given for and against the new school law, at a general election held in said district, on the day of

November, one thousand eight hundred and forty-nine,  
viz: That the whole number of votes given for and  
against said law, was ; of which  
were given "for the new school law," and were  
given "against the new school law."

Dated Nov. 1849.

A. B. }  
C. D. } Inspectors of  
E. F. } Election.

The Certificate must be returned in the same manner  
as the Certificate of the canvass of other votes cast at the  
same election.

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### COUNTY CANVASS.

#### *Statement of the Board of County Canvassers.*

##### STATEMENT IN RELATION TO THE NEW SCHOOL LAW.

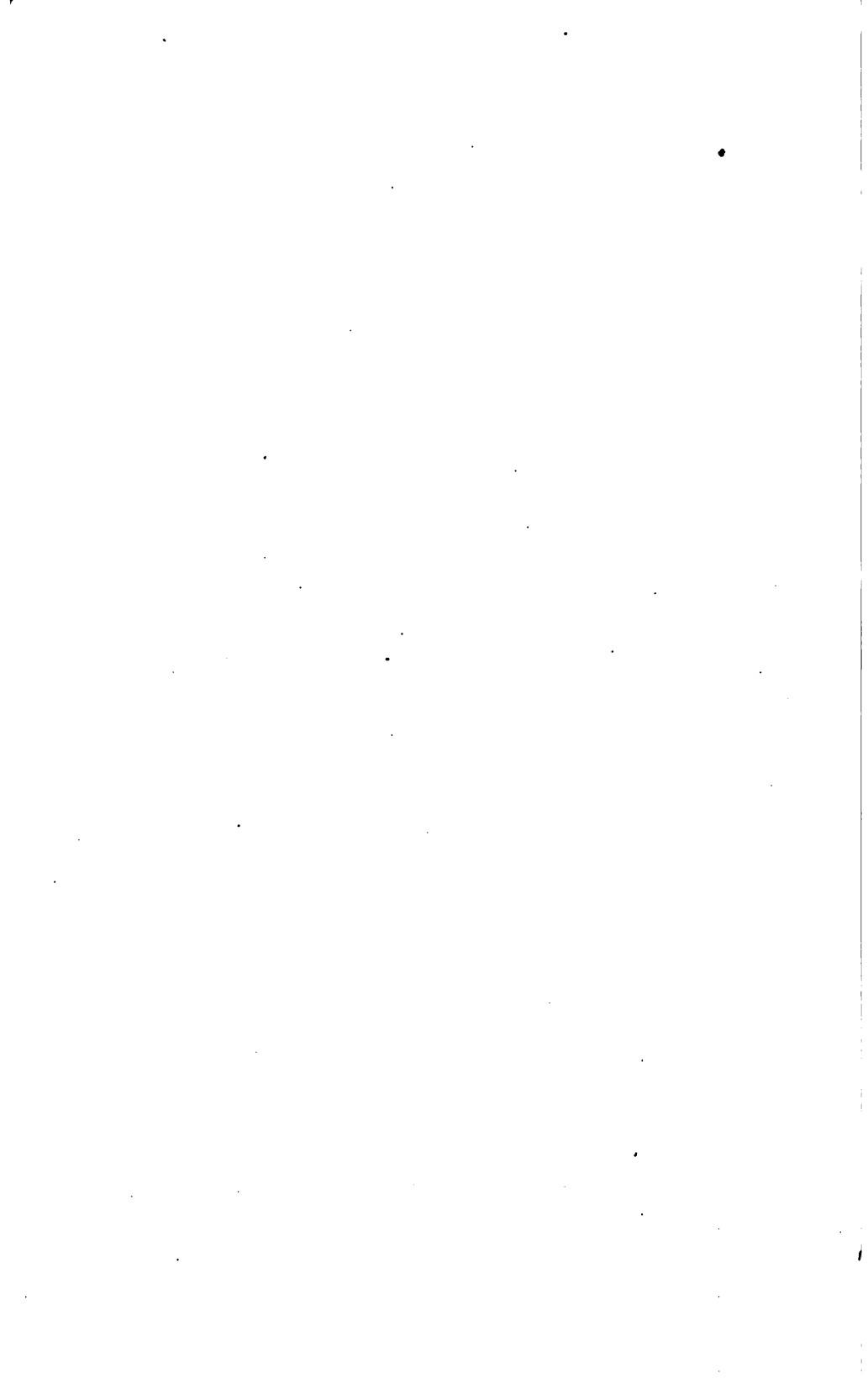
The Board of County Canvassers of the County of  
having met at the office of the clerk of said  
county, on the day of November, 1849, to canvass  
and estimate the votes given in the several election dis-  
tricts of said county, at a general election held on the  
day of November, in the year aforesaid, do certify  
as follows, to wit: That it appears from such estimate  
and canvass, that the whole number of votes given for  
and against the new school law was of which  
were given "for the new school law," and  
were given "against the new school law."

Dated the day of in the year 1849.

A. B., *Chairman.*

C. D., *Clerk of said county and Secretary.*

The County Clerk will prepare three certified copies, under his signature and sealed with his seal of office, of the foregoing statement, and within five days after the adjournment of the Board of County Canvassers, will deposit the same in the nearest post office, one of said certified copies being directed to the Governor, one to the Comptroller, and one to the Secretary of State.



The two following acts amending Chap. 480, Laws of 1847, are included in this pamphlet, in order to give them as wide a circulation as possible. Town Superintendents, and Clerks and Trustees of School Districts, would do well to compare these acts with the law as published in the last edition of the "SCHOOL LAWS AND FORMS," noting the amendments.

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## CHAPTER 388.

### AN ACT

To amend an act entitled "An act in relation to suits against district school officers," passed May 1, 1847,

[Passed April 11, 1849, three-fifths being present.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The first section of the act entitled "An act in relation to suits against district school officers," passed May 1, 1847, is hereby amended so as to read as follows:

§ 1. Whenever a suit shall have been commenced, or shall hereafter be commenced against the trustees of a school district, in consequence of acts by them performed in pursuance of and by the direction of such district, for any act performed by virtue of, or under color of their office, and such suit shall have been finally determined, or whenever after the final determination of any suit commenced by or against any trustees or other officers of a school district, a majority of the taxable inhabitants of any school district shall so determine, it shall be the duty of the trustees to ascertain in the manner hereinaf-

ter described, the actual amount of all costs, charges and expenses paid by such officer, and to cause the same to be assessed upon and collected of the taxable inhabitants of said district, in the same manner as other taxes of said district are by law assessed and collected, and when so collected to pay the same over to the officer, by virtue of this act, entitled to receive the same; but this provision shall not extend to suits for penalties, nor suits or proceedings to enforce the decision of the superintendent.

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## CHAPTER 382.

### AN ACT

To amend chapter four hundred and eighty of Session Laws of 1847, entitled "An act relative to the office of Town Superintendent of Common Schools, and amendatory of the Revised Statutes, entitled of Public Instruction," passed December 15, 1847.

[Passed April 11, 1849, three-fifths being present.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Sections forty-seven, forty-eight, forty-nine and fifty-one of chapter four hundred and eighty of session laws of 1847, entitled "An act relative to the office of town superintendent of common schools, and amendatory of the Revised Statutes, entitled of public instruction," passed December 15, 1847, are hereby repealed.

§ 2. Section fifty of the act specified in the next preceding section is hereby amended so as to read as follows:

§ 50. When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the districts of which it shall be composed, and when a district is annulled and portions thereof are annexed to other districts, the property of the district so annulled shall be sold by the town superintendent of the town in which the school house is located, at public

auction to the highest bidder therefor, after at least five days public notice by notices posted in three or more public places in said town, one of which shall be within the district so annulled, and the proceeds of such sale shall be first applied so far as requisite, to the payment of any just debts due from the district so annulled, and the residue thereof shall be apportioned among the taxable inhabitants of the district so annulled in the ratio of their several assessments upon the last corrected assessment roll of the town or towns within which such district is located.

§ 3. Section seventy-six, chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, is hereby amended so as to read as follows :

§ 76. The clerk, trustees, collector and librarian of each school district, shall hold their respective offices until the annual meeting of such district next following the time of their appointment.

§ 4. Section ninety-nine, chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, is hereby amended so as to read as follows :

§ 99. Every district tax shall be assessed, and the tax list therefor be made out by the trustees, and a proper warrant attached thereto, within thirty days after the district meeting in which the tax shall have been voted.

§ 5. Section one hundred, chapter four hundred and eighty, laws of 1847, is hereby amended so as to read as follows :

§ 100. It shall be the duty of the said trustees, after the expiration of the said thirty days, to deliver the said tax list and warrant to the collector of the district, and such collector is hereby authorised and directed, upon receiving his warrant, for two successive weeks, to receive such taxes as may be voluntarily paid to him ; and in case the whole amount shall not be so paid in, the collector shall proceed forthwith to collect the same. He shall receive for his services, on all sums paid in as aforesaid, one per cent, and upon all sums collected by him after the expiration of the time mentioned, five per cent ; and in case a levy and sale shall be necessarily made by such collector, he shall be entitled to travelling fees at the rate of six cents per mile, to be computed from the school house in such district.

§ 6. Subdivision fourteen, section eighty-two, chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, is hereby amended so as to read as follows :

14. To deliver such rate bill, with the warrant annexed, after the same shall have been made out and signed by them, to the collector of the district, who shall execute the same in like manner with other warrants directed by such trustees, to such collector for the collection of district taxes ; and the collector to whom any such rate bill and warrant shall be delivered for collection, shall possess the same power, be entitled to the same fees, and subject to the same restrictions and liabilities with their bail and sureties, as by this title is provided in proceedings to collect school district taxes.

§ 7. Section one hundred and five, chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, is hereby amended so as to read as follows :

§ 105. When the necessary fuel for the school of any district shall not be provided, by means of a tax on the inhabitants of the district or otherwise, it shall be the duty of the trustees of the district to provide the necessary fuel, and levy a tax upon the inhabitants of the district to pay for the same.

§ 8. Subdivisions three and four, section one hundred and sixteen, chapter four hundred and eighty, laws of 1847, are hereby amended so as to read as follows :

3. The number of children taught in the district during such year.

4. The number of children residing in the district on the last day of December previous to the making of such report, over the age of five years, and under sixteen years of age, (except Indian children otherwise provided for by law,) and the names of the parents or other persons with whom such children shall respectively reside, and the number of children residing with each.

§ 9. The trustees of any school district may expend in the repair of the school house a sum not exceeding ten dollars in any one year, and the same may be levied and collected by a separate tax, or added to any tax authorised to be levied and collected.

Every town superintendent, during his continuance in office, shall be deemed a qualified teacher.

§ 10. Town superintendents are hereby authorised to administer oaths in all cases relating to school district affairs and controversies, but shall not be entitled to charge any fees therefor.

§ 11. Every teacher shall be deemed a qualified teacher, who shall hold a certificate dated within one year, from the superintendent of common schools for the town in which such teacher shall be employed, or who shall have in possession a state or county certificate of qualification, or a diploma from the State Normal School.

§ 12. Subdivision eight, section eighty-two, chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, is hereby amended so as to read as follows:

8. To pay the wages of such teachers when qualified, by giving them orders on the town superintendents for the public money belonging to their districts, so far as such moneys shall be sufficient for that purpose; and to collect the residue of such wages, from all persons liable therefor.

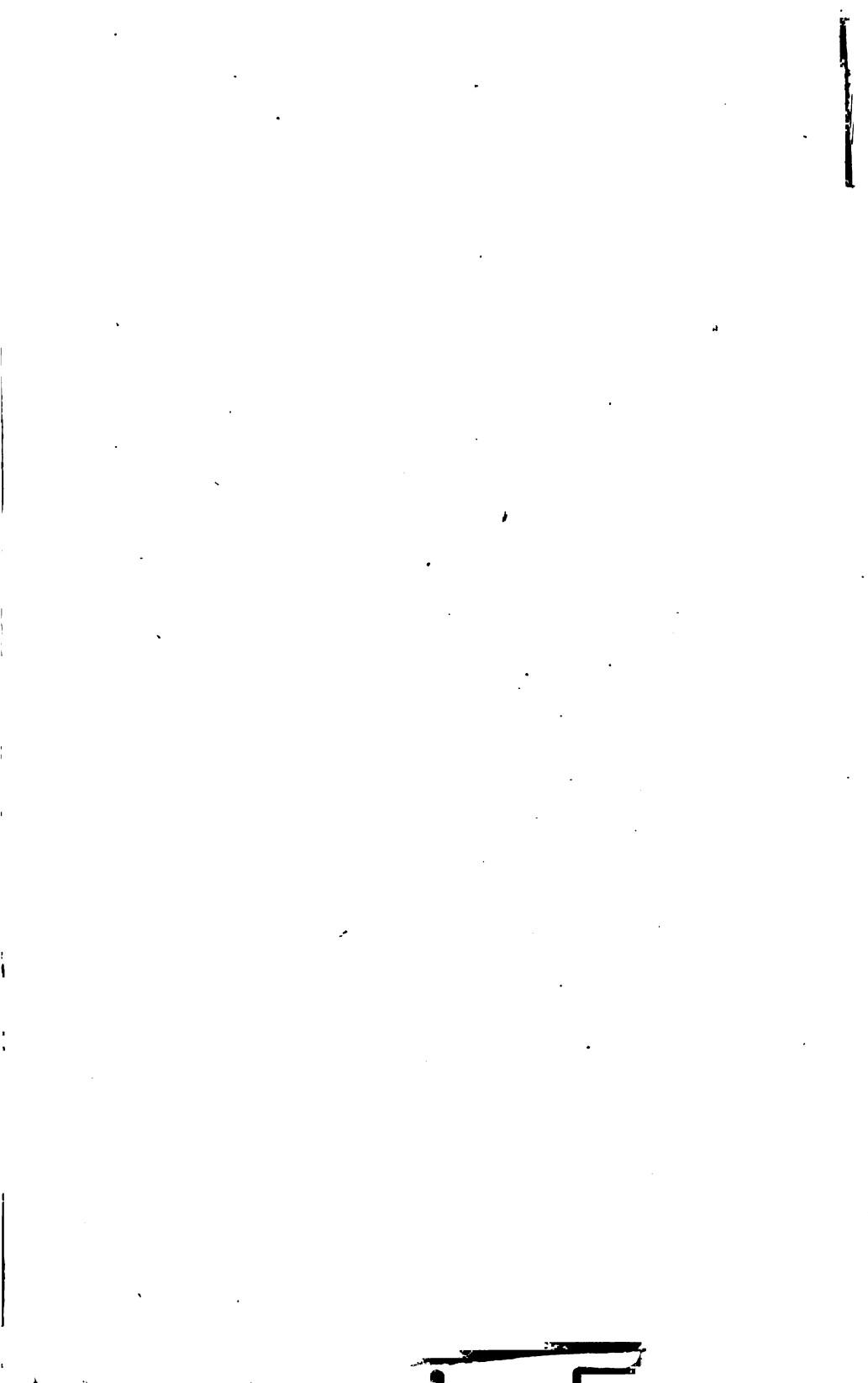
§ 13. Whenever any money is paid into the treasury of the State for or on account of the Common School Fund, it shall be the duty of the Comptroller to credit the Common School Fund with interest on the sum so paid in, at the rate of six per cent per annum, for the time the same shall remain in the Treasury.

§ 14. Any person appointed to the office of town superintendent by the justices of the peace, shall hold his office till the first Monday of November following the next annual town meeting, and whenever the office of town superintendent shall be vacant for any cause, or before the time of the annual town meeting, shall be held by a person so appointed, the electors of the town at such town meeting shall choose a town superintendent to fill such vacancy or to supersede such appointee; and the person so elected shall enter upon the duties of the office on the first Monday of November following his election, and shall hold his office for the term of two years.

§ 15. Whenever it shall be satisfactorily proven to the State Superintendent that any county or town superintendent, or other school officer, has embezzled the public money, or any money coming into his hands for school purposes, or has been guilty of the wilful vio-

tion of any law, or neglect of any duty or of disobeying any decision, der or regulation of the Department of Common Schools, the State iperintendent is hereby authorised to remove such officer from such fice, by an order under the seal of office of the Secretary of State.

§ 16. Sections fifteen, eighty-three, one hundred and six, one hundred and seven, one hundred and eight, one hundred and thirty-two, chapter four hundred and eighty, laws of eighteen hundred and forty-seven, and section three, chapter two hundred and fifty-eight, laws of eighteen hundred and forty-seven, are hereby repealed.



## **NOTICE.**

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**The County Clerk will deliver to the  
Town Superintendent of each Town the  
number of copies to which it is by law en-  
titled**

**The Town Superintendents will distri-  
bute the copies among the several districts,  
one copy to be placed in the district library,  
and one copy to each of the Trustees, and  
Clerk of the district.**

**CHRISTOPHER MORGAN,**  
*Supt. Common Schools.*

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